

# Senate File 491 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1234)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act prohibiting a person who is the subject of a protective  
2 order or who has been convicted of a misdemeanor crime of  
3 domestic violence in violation of federal law from possessing,  
4 transferring, or selling firearms or offensive weapons and  
5 providing a penalty.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
7 TLSB 1098SV 82  
8 rh/je/5

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1 1 Section 1. Section 724.26, Code 2007, is amended to read  
1 2 as follows:

1 3 724.26 POSSESSION, RECEIPT, TRANSPORTATION, OR DOMINION  
1 4 AND CONTROL OF FIREARMS AND OFFENSIVE WEAPONS BY FELONS AND  
1 5 OTHERS.

1 6 1. A person who is convicted of a felony in a state or  
1 7 federal court, or who is adjudicated delinquent on the basis  
1 8 of conduct that would constitute a felony if committed by an  
1 9 adult, and who knowingly has under the person's dominion and  
1 10 control or possession, receives, or transports or causes to be  
1 11 transported a firearm or offensive weapon is guilty of a class  
1 12 "D" felony.

1 13 2. A person who is subject to a protective order under 18  
1 14 U.S.C. } 922(g)(8) or who has been convicted of a misdemeanor  
1 15 crime of domestic violence under 18 U.S.C. } 922(g)(9), and  
1 16 who knowingly possesses, ships, transports, or receives a  
1 17 firearm or offensive weapon, is guilty of a class "D" felony.  
1 18 Such a person shall not be eligible to obtain a permit under  
1 19 this chapter and any permits issued to such a person are  
1 20 deemed revoked.

1 21 3. Except as provided in section 809A.17, subsection 5,  
1 22 paragraph "b", a firearm or offensive weapon taken into  
1 23 custody by or surrendered to law enforcement under this  
1 24 section shall be disposed of in any of the following ways:  
1 25 a. Held as evidence if used or intended to be used in any  
1 26 manner or part to facilitate conduct giving rise to a  
1 27 violation described in subsection 2.

1 28 b. Transferred to the custody of a qualified person in  
1 29 this state, as determined by the court. The qualified person  
1 30 shall not reside in the home of a person found guilty of an  
1 31 offense under this section and must be able to lawfully  
1 32 possess a firearm or offensive weapon in this state. The  
1 33 qualified person who takes custody of the firearm or offensive  
1 34 weapon may, at the direction and on behalf of the person  
1 35 subject to subsection 2, sell the firearm or offensive weapon  
2 1 to any other person who is not otherwise prohibited by law  
2 2 from possessing a firearm or offensive weapon.

2 3 c. Stored by the county sheriff. The court shall assess  
2 4 the defendant, in addition to any penalty, a fee of fifty  
2 5 dollars plus the cost of any other expenses for storing the  
2 6 firearm or offensive weapon, payable to the county sheriff's  
2 7 office.

2 8 4. A firearm or offensive weapon taken into custody or  
2 9 surrendered pursuant to subsection 2 from a person who is the  
2 10 subject of a protective order shall be returned by the county  
2 11 sheriff upon the person's demand if the county sheriff  
2 12 determines both of the following:

2 13 a. The protective order has been vacated or has expired.

2 14 b. The person subject to the protective order is not  
2 15 otherwise prohibited by law from possessing a firearm.

2 16 5. The county sheriff or the county sheriff's designee  
2 17 shall not be liable to any person for acts done in reasonable  
2 18 compliance with this section.

2 19 EXPLANATION

2 20 This bill amends Code section 724.26 to prohibit the  
2 21 knowing possession, shipment, transportation, or receipt of a  
2 22 firearm or offensive weapon by a person who is the subject of  
2 23 a protective order under federal law (18 U.S.C. } 922(g)(8))  
2 24 or by a person who has been convicted of a misdemeanor crime  
2 25 of domestic violence under federal law (18 U.S.C. }  
2 26 922(g)(9)).

2 27 Violation of the prohibition is a class "D" felony. A  
2 28 class "D" felony is punishable by confinement for no more than  
2 29 five years and a fine of at least \$750 but not more than  
2 30 \$7,500. Such a person shall not be eligible to obtain a  
2 31 permit to carry weapons or a permit to acquire pistols or  
2 32 revolvers.

2 33 The bill further provides that unless a forfeiture  
2 34 proceeding has been initiated, a firearm or offensive weapon  
2 35 taken into custody or surrendered to law enforcement under the  
3 1 bill and Code section 724.26 shall be disposed of in any one  
3 2 of the following ways:

3 3 1. Held in evidence if the firearm or offensive weapon was  
3 4 used or intended to be used in any part to facilitate conduct  
3 5 giving rise to any of the delineated violations.

3 6 2. Transferred to a qualified person who does not live  
3 7 with the offender and who is qualified in Iowa to possess a  
3 8 firearm or offensive weapon, as determined by the court. The  
3 9 qualified person who takes custody of the firearm or offensive  
3 10 weapon may, at the direction and on behalf of the person who  
3 11 is the subject of a protective order or who has been convicted  
3 12 of a misdemeanor crime of domestic violence under federal law,  
3 13 sell the firearm or offensive weapon to any other person who  
3 14 is not otherwise prohibited by law from possessing a firearm  
3 15 or offensive weapon.

3 16 3. Stored by the county sheriff. The court shall assess  
3 17 the defendant, in addition to any other penalty, a fee of \$50  
3 18 plus the costs of any other expenses to cover storage costs.

3 19 4. A firearm or offensive weapon taken into custody or  
3 20 surrendered pursuant to the bill shall be returned by the  
3 21 county sheriff upon the person's demand if the county sheriff  
3 22 determines that the protective order has been vacated or has  
3 23 expired and the person subject to the protective order is not  
3 24 otherwise prohibited by law from possessing a firearm.

3 25 The bill provides the county sheriff or the county  
3 26 sheriff's designee shall not be liable to any person for acts  
3 27 done in reasonable compliance with the bill.

3 28 LSB 1098SV 82

3 29 rh:rj/je/5.1